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FISCAL IMPACT STATEMENT

LS 6421

BILL NUMBER: HB 1112

NOTE PREPARED: Apr 29, 2005

BILL AMENDED: Apr 28, 2005

SUBJECT: Direct Placement in Community Corrections.

FIRST AUTHOR: Rep. Richardson

FIRST SPONSOR: Sen. Long

BILL STATUS: Enrolled

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It allows the Department of Correction (DOC) to provide a transitional dormitory with faith-based programming at any state-operated correctional facility. It directs the DOC to submit a report to the Legislative Council on the progress of faith-based transitional dormitories. It directs the DOC Commissioner to report the progress of contracting with a faith-based organization to create a pilot project to operate faith-based transitional dormitories at state-operated correctional facilities.
- B. It allows a court to order a county jail inmate to reimburse a county for all or a portion of medical care expenses incurred by the county in providing medical care to the inmate as a term of a sentence. It provides exceptions for certain county jail inmates.
- C. It allows certain persons convicted of operating a vehicle while intoxicated with two prior unrelated convictions to be placed directly in a community corrections program if: (1) the person is required to serve the nonsuspendible part of the person's sentence in a work release program or a program that uses electronic monitoring as part of the person's supervision; and (2) the person participates in a court-approved substance abuse program. It provides that a person convicted of operating a vehicle while intoxicated causing death or causing serious bodily injury may not be placed directly in a community corrections program, and specifies that operating while intoxicated causing death as a Class B felony by a person at least 21 years old is nonsuspendible. It makes technical corrections concerning references to aggravating circumstances.
- D. It provides that the violation of a condition of community corrections placement or a condition of pretrial release is an aggravating circumstance, and specifies that a court may consider nonstatutory matters in imposing a sentence.
- E. It relocates and repeals a provision dealing with aggravating circumstances.

Effective Date: Upon passage; July 1, 2005.

Explanation of State Expenditures: *Provision A* – The Department of Correction could incur added costs depending on how many transitional dorms it decides to develop at prison facilities by January 1, 2007. Under this bill, eligibility could be based on the following criteria:

- The offender has less than 24 months until the offender's expected release date.
- The offender's previous disciplinary history.
- Security risks.
- Demonstrated interest in the transitional program.
- Previous attempts to reside in a transitional dormitory at any penal facility.

Offender Population by Security Level – The Department of Correction reported that as of December 16, 2004, that 4,754 offenders had an earliest possible release date between 2006 and 2007 who were in Credit Class 1. Offenders in Credit Class 1 comply with a facility's rules and regulations and receive a day cut off from their length of stay for each day at that level. The following shows how these offenders are assigned by security level. For women, two facilities house offenders who are in Levels 1, 2, 3, and 4. For men, 26 facilities house offenders in Levels 1 through 4.

Offenders in Credit Class 1 Projected to be Discharged Between 2006 and 2007 on December 16, 2004						
<u>Security Level</u>	<u>Description</u>	<u>Number</u>	<u>Type of Housing</u>	<u>Men</u>	<u>Women</u>	<u>Total</u>
1	Minimum Security	12	Dormitories	681	117	798
2	Low Medium	7	Dormitories	3,606	350	3,956
3	High Medium	5	Cells	452	15	467
4	Maximum Security	5	Cells	127		127
Totals		29		4,866	482	5,348

The number of staff needed to operate a transitional facility depends on the following factors:

- The type of program offered,
- The type of offenders in these facilities, and
- The physical design of the facility.

DOC Facilities – Facilities housing Level 3 and 4 offenders may incur additional expenses for implementing a transitional dorm. First, offenders in the Level 3 and 4 security facilities are housed in cells and require more intensive supervision than offenders in the medium security facilities. If more supervision in a transitional unit is needed, either additional staff would need to be hired or facility personnel may need to be reassigned from other units of the facility depending on administrative decision. Second, if no dormitories already exist on the facility campus, the facility may need to construct new dormitories. Building new dormitories would free up more cells to accommodate added offenders.

Since all offenders in Level 1 and 2 facilities are housed in dorms, the added costs for creating a transitional

dorm are likely to be minimal.

Comparing Average Costs – Until May 17, 2002, DOC operated a transitional unit at the Westville Correctional Facility. As an illustration of the cost of a transitional dormitory, the following table shows the average cost per offender in FY 2002 for the transitional unit compared to the entire Westville Facility.

Comparing the Annual Cost per Offender for the Westville Transitional Unit with the Entire Westville Facility, FY 2002									
	Personal Services	Other Services	Services by Contract	Materials/Supplies	Equipment	Grants, Subsidies /Awards	Travel	Prev. Maint.	Total Costs
Entire Unit	\$15,572	\$1,067	\$303	\$1,583	\$135	\$125	\$6	\$237	\$19,029
Trans. Unit	\$17,247	\$553	\$200	\$401	\$507	\$37	\$41	\$0	\$18,985

Overcrowding in DOC facilities may contribute to at least some difficulty in developing a transitional dorm. Level 2 facilities were particularly overcrowded as of November 30, 2004, for both male and female offenders.

Rated Bed Capacity and Number of Offenders on December 31, 2004, By Facility Level				
	Facility Level	Bed Capacity	Ending Count	Percent Overcapacity
Men	1	1,046	1,277	122%
	2	5,862	8,375	143%
	3	3,552	4,544	128%
	4	3,899	5,006	128%
Women	1	238	219	92%
	2	624	1,169	187%
	3	349	388	111%

Pilot Project – The DOC Commissioner would be required to report progress in entering into a contract with a faith-based organization to create a pilot project to operate a faith-based transitional dormitory in DOC by September 1, 2005.

Reports to the Legislative Council – DOC would be required to initially report its progress in developing a faith-based transitional program one year after its inception and continue to provide a report to the Legislative Council on the transitional dormitory program on or before December 1 of each year.

Provision C -- A person who is convicted of operating a vehicle while intoxicated (OWI) with one or more prior unrelated convictions of an OWI commits a Class D felony. A Class D felony is punishable by a term of imprisonment ranging between six months and three years. Under current law, offenders with a current conviction of an OWI and one prior unrelated conviction of an OWI may be directly committed to a community corrections program. This bill would permit courts to place offenders **with more than one** prior unrelated OWI conviction in a community corrections program. For each offender committed to a community corrections program, the state avoids the cost of one offender being incarcerated in DOC facilities.

DOC reports that the number of offenders who have been committed for an OWI with one or more prior OWI convictions was 1,287 in FY 2004. Based on a packet search of 10% of these offenders committed with more than one OWI conviction in FY 2002, DOC found that 20% of these offenders had one prior offense, while the remaining 80% had two or more prior unrelated offenses.

The following table was compiled based on the number of offenders who were committed from counties with and without a community corrections program.

Number of Offenders Committed to DOC for Operating a Vehicle While Intoxicated With One or More Prior OWI Convictions, FY 2004			
<u>Offenders With:</u>	From Counties with		<u>Total Commitments</u>
	<u>Community Corrections Programs</u>	<u>No Community Corrections Programs</u>	
One Prior Offense (20%)	197	60	257
More than One Prior Offense (80%)	<u>788</u>	<u>242</u>	<u>1,030</u>
Total Commitments	<u>985</u>	<u>302</u>	<u>1,287</u>
Note: A packet search by DOC in FY 2002 of 10% of these commitments showed that 20% had one prior conviction and the remaining 80% had more than one prior conviction.			

Based on these estimates, an estimated 788 offenders who were committed to DOC in FY 2004 could potentially be committed to a community corrections program depending on the availability of space and the discretion of the sentencing court and whether the person participated in a court-approved substance abuse program. The average expenditure to house an adult offender in a DOC facility was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281.

Depending on the community correction program in which an offender is placed, the average annual cost to the state for placing a felony offender in a program in FY 2004 was \$3,050 (state adult program grants in FY 2004 of \$28,286,344 ÷ 9,273 adult felony offenders committed to DOC in FY 2004).

Under current law, any person who is convicted of causing death while OWI with a blood alcohol content of 0.15 must serve a mandatory minimum sentence of either two years for a Class C felony or six years for a Class B felony. The following table illustrates what changes would be made in the sentencing laws concerning causing death while OWI.

Proposed Changes in Offense for Persons Causing Death While OWI			
		Age of Person	
		<u>Younger than 21</u>	<u>At least 21</u>
Blood Alcohol Content	Between 0.08 and 0.15 BAC or controlled substance in blood or intoxicated	Currently -- Class C Felony minimum 2 years to be served Proposed -- Sentence could be suspended	Currently -- Class C felony minimum 2 years to be served Proposed -- Sentence could be suspended
	At least 0.15	Currently -- Class C felony minimum 2 years to be served Proposed -- Sentence could be suspended	Currently -- Class B felony minimum 6 years to be served No Change Proposed

For the years between 2000 and 2004, 129 persons were committed to DOC for causing death while OWI. Of these, two individuals were younger than 21 years of age.

Explanation of State Revenues:

Explanation of Local Expenditures: *Provision B* allows a court to order a county jail inmate to reimburse a county for any medical care expenses incurred by the county in providing medical care to the inmate. The bill, however, states that a county jail inmate may not be required to reimburse a county if (1) all the charges for which the inmate was detained in the county jail are dismissed, or (2) the inmate is acquitted of all charges for which the inmate was detained.

While more costs could be recovered, no data exists which indicates the dollar amount spent on medical care for inmates who would be required to reimburse the county. Ultimately, any increase in revenue will depend on the number of inmates and the amount able to be collected from each inmate.

Provision C Direct Placement – Under current law, community corrections programs may already receive offenders who have been committed to DOC when they have had one prior OWI offense. Adding this provision to the sentencing laws could increase the sentencing options for the courts for offenders who have more than one prior unrelated OWI offense.

The local community corrections program will incur some additional cost for each offender sentenced to a community corrections program rather than to DOC. Each community correction program has distinct program options for offenders. Some programs are paid almost entirely by the offender, while other programs are financed by a combination of offender fees, and local, state, and federal funding.

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, community corrections programs.

Information Sources: Department of Correction Planning Division.

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